

REMARKS

In the Office Action, dated November 8, 2002, the Examiner states that Claims 1-10 are pending, Claims 1-5 are rejected, and Claims 6-10 are objected to. By the present Amendment, Applicant amends the claims.

In the Office Action, the disclosure is objected to because the specification is not one and a half or double-spaced. Attached is a copy of the application as originally filed including the amendments made during the Chapter II proceeding in the PCT.

In the Office Action, Claims 6-10 are objected to for being in improper multiple dependent format. The Applicant has amended the claims to remove the improper multiple dependencies.

In the Office Action, Claims 1-5 are objected to for including characterizing language. The Applicant draws the Examiner's attention to the fact that the claims, when amended during the Chapter II proceeding in the PCT, were amended to remove the characterizing language. The Applicant thus believes the Examiner did not examine the claims which were originally filed in the present application which incorporated the PCT amendments.

In the Office Action, Claims 1-5 are rejected under 35 USC §101 as being directed to non-statutory subject matter; in particular the positive recitation of body parts in Claim 1. The Applicant has amended Claim 1 as suggested by the Examiner to overcome this rejection.

In the Office Action, Claims 1-5 are rejected under 35 USC §112, second paragraph as being indefinite. The rejection states that as claimed in Claim 1, one point (B) is not located distally of the metatarsal joint. The Applicant respectfully disagrees with this rejection.

The Applicant agrees with the definition of the word "distal" as "located far from the origin or line of attachment, as a bone" but disagrees with the rejection regarding point B in Fig. 1. Indeed, point B in Fig. 1 is located distally of the metatarsal joint, (see position of metatarsal joint in Exhibit A).

3

The Applicant has also amended the rejected Claim 5 to remove the indefiniteness.

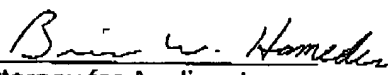
In the Office Action, Claims 1-5 are rejected under 35 USC §102(b) as anticipated by Daly (US 2,416,823). The Applicant respectfully disagrees with this rejection.

Daly discloses a typical "sleep-or-resting-brace" according to the stated prior art in the application, p. 1, lines 11-16. Indeed, the brace according to Daly uses basically three pressure points, two of which being located at the metatarsus, therefore embracing the metatarsal joint and as a consequence, it makes walking very unpleasant or even impossible. The claimed subject matter, in contrast, has all the points of the lever means positioned distally of the metatarsal joint and as a consequence provides a hallux valgus brace which does not hinder walking at all, which is the main object of the present invention. Therefore, the brace according to Daly cannot be considered to be of particular relevance for the present invention.

In light of the foregoing response, all the outstanding objections and rejections have been overcome. Applicant respectfully submits that this application should now be in better condition for allowance and respectfully requests favorable consideration.

Respectfully submitted,

February 7, 2003
Date


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